

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CASE NO.: 1:18-CV-07047

MORGAN HOWARTH,

Plaintiff,

v.

FORM BIB, LLC dba FORM NY,

Defendant.

COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)

Plaintiff MORGAN HOWARTH by and through undersigned counsel, brings this Complaint against Defendant FORM BIB, LLC dba FORM NY for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff MORGAN HOWARTH (“HOWARTH”), brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Howarth’s original copyrighted works of authorship.

2. Howarth is an experienced professional photographer who makes a living from photography. Based in the Washington D.C. area, Howarth has been a photographer for over 25 years and focuses on interior and architecture work. His rich and illustrative style brings architecture to life by combining a multitude of separately lit images into one perfect shot. Morgan has worked as a photographer for a multitude of national clients including Timex, Sears Catalog, The Lenox Hotel, Cole Haan Shoes, GH Bass Shoes, Timberland Shoe, CBS, and Home & Design Magazine, and has been exposed to many beautiful people and places throughout his

career. However, he still considers the best part of any assignment to be the client's final "Wow!"

3. Howarth uses a combination of tungsten, daylight, and strobe light to create the best possible natural looking light to suit the needs of each room or scene. This process takes several different exposures and lighting set-ups per image which are then combined into one Hi-Res image.

4. Defendant FORM BIB, LLC dba FORM NY ("FORM") is an architectural planning company.

5. Howarth alleges that FORM copied Howarth's copyrighted works from the internet in order to advertise, market and promote its business activities. FORM committed the violations alleged in connection with FORM's business for purposes of advertising and promoting sales to the public in the course and scope of FORM's business.

JURISDICTION AND VENUE

6. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

7. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

8. Defendant is subject to personal jurisdiction in New York.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Defendant resides in this district, and Defendant is subject to personal jurisdiction in this district.

DEFENDANT

10. FORM BIB, LLC d/b/a FORM NY is a Massachusetts Corporation with its principal place of business at 257 Park Ave South, 19th Floor, New York, NY 10010, and can be served by serving its Registered Agent, Incore Services, Inc., 44 School Street, Suite 305, Boston, MA 02108.

THE COPYRIGHTED WORKS AT ISSUE

11. Howarth created 3 photographs which are shown below and referred to herein as the “Works”.





12. Howarth registered the Works with the Register of Copyrights on September 28, 2011 and was assigned the registration number VA 1-803-266. The Certificate of Registration is attached hereto as Exhibit 1.

13. At all relevant times Howarth was the owner of the copyrighted Works at issue in this case.

INFRINGEMENT BY DEFENDANT

14. FORM has never been licensed to use the Works at issue in this action for any purpose.

15. On a date after the Works at issue in this action were created, but prior to the filing of this action, FORM copied the Works.

16. FORM copied Howarth's copyrighted Works without Howarth's permission.

17. After FORM copied the Works, it made further copies and distributed the Works on the internet to promote the sale of goods and services as part of its architectural services.

18. FORM copied and distributed Howarth's copyrighted Works in connection with FORM's business for purposes of advertising and promoting FORM's business, and in the course and scope of advertising and selling products and services.

19. Howarth's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

20. FORM committed copyright infringement of the Works as evidenced by the documents attached hereto as Exhibit 2.

21. Howarth never gave FORM permission or authority to copy, distribute or display the Works at issue in this case.

22. Howarth notified FORM of the allegations set forth herein on October 11, 2017.

To date, FORM has failed to respond to Plaintiff's Notice.

COUNT I
COPYRIGHT INFRINGEMENT

23. Plaintiff incorporates the allegations of paragraphs 1 through 22 of this Complaint as if fully set forth herein.

24. Howarth owns a valid copyright in the Works at issue in this case.

25. Howarth registered the Works at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

26. FORM copied, displayed, and distributed the Works at issue in this case and made derivatives of the Works without Howarth's authorization in violation of 17 U.S.C. § 501.

27. FORM performed the acts alleged in the course and scope of its business activities.

28. Howarth has been damaged.

29. The harm caused to Howarth has been irreparable.

WHEREFORE, the Plaintiff prays for judgment against the Defendant FORM BIB, LLC d/b/a FORM NY that:

a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendant be required to pay Plaintiff his actual damages and Defendant's profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

c. Plaintiff be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon; and

d. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: August 6, 2018

Respectfully submitted,

/s/ Joel B. Rothman

JOEL B. ROTHMAN

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